IN THE HIGH COURT OF JUDICATURE AT BOBBY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 51 OF 2005

Shri Sahasram Ramnarayan Yadav ..Applicant.
V/s.

The State of Maharashtra ..Respondent.

WITH

CRI. APPLICATION NO. 52 OF 2005

Shri Mohammed Nasir Mohammed Zakir Shaikh @ Nasir Framewala .. Applicant.
V/s.

The State of Maharashtra ..Respondent.

Shri Uday V. Arolkar for the Applicant in both the Applications.
Shri V. B. Konde- Deshmukh, APP for the State in both the Applications.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 2, 2005

PC :-

. Heard learned counsel for the parties. The only argument canvassed before this court is that the recovery of Charas from the person of the Applicants herein is less than commercial quantity; However, the court below has applied provisions of section 36 -A(4) of NDPS Act to the present case on the basis of the recovery of total Charas from the person of two accused arrested together, which approach is incorrect. There is no substance in this submission.

In my view, the court below has rightly applied the provisions of section 36-A (4) of the NDPS Act to the present case on the reasoning that the recovery of Charas from both the persons arrested together will have to be reckoned for the purpose of offence in question. Hence, no interference is warranted with the order of the court below. Learned counsel placed reliance on the division bench of Himachal Pradesh High Court, in thecae of Ratto vs. State of H.P. , reported in 2003 (3) Crimes 323. However, the issue involved in that case is entirely different. Reliance is placed on the observation in para 22 of its decision. As mentioned earlier, the reported decision was not called upon to examine the question that arises in the present case. Hence, dismissed.

. The Registrar of the Sessions Court, Greater Mumbai, to submit report as to the number of NDPS cases pending yearwise and giving break up of cases where accused are in jail and the manner in which those cases have been assigned for early disposal. This report is necessitated on account of figures mentioned in the order dated 16th December, 2004 in NDPS Spl. B.A. 171 of 2004.

. Report be filed in two weeks. Post on 17th

February, 2005 for "directions".

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